

**Board of Zoning Adjustment  
Staff Report  
August 7, 2023**



<b>Case No:</b>	22-VARIANCE-0106
<b>Project Name:</b>	Westport Road Market
<b>Location:</b>	4630 Westport Road, Parcel ID 035100090000, 035100530000, 035100020000, 035100540000, 035100550000
<b>Owner(s):</b>	Choi Enterprises LLC
<b>Applicant:</b>	Choi Enterprises LLC
<b>Jurisdiction:</b>	City of St. Matthews
<b>Council District:</b>	7 – Paula McCraney
<b>Case Manager:</b>	Dante St. Germain, AICP, Planner II

**REQUEST**

- **Variance** from City of St. Matthews Development Code Section 6.1.C.2.e to permit parking, vehicular use area, and a dumpster enclosure to encroach into a required 25' property perimeter setback (required 25', requested 5', variance of 20')

**CASE SUMMARY**

The subject site is located on Westport Road at the intersection with Washburn Avenue, and consists of 6 contiguous parcels. The applicant proposes a new 13,456 sf building, of which 11,456 sf would be a grocery store and 2,000 sf would be restaurant space.

The site was rezoned from R-5 to C-N in 2012, under docket 16085, with the proposal at that time being a credit union. The credit union was not constructed.

The development plan and a required waiver were heard by the Development Review Committee on June 28, 2023. The plan and waiver were forwarded to the City of St. Matthews for final determination with a positive recommendation from the DRC.

**STAFF FINDING**

Staff finds that the requested variance for the street side yard setback has not been adequately justified based on staff's analysis contained in the standard of review.

Based upon the information in the staff report and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the Development Code for a variance.

**TECHNICAL REVIEW**

MSD and Transportation Planning have provided preliminary approval of the proposal.

**STANDARD OF REVIEW FOR VARIANCE from 6.1.C.2.e**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare, because the structure will comply with all applicable building codes and the Development Code, except where relief is requested. The proposed encroachment will not impact vision clearance for vehicular traffic maneuvering along Washburn Avenue.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The essential character of the general vicinity is residential. The site is zoned C-N and a low-intensity commercial use is proposed on the site. The applicant will provide an adequate VUA LBA to screen the proposed parking and dumpster enclosure.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public because the encroachment will not hinder the safe movement of vehicles or pedestrians.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations, as the site is located on a corner and a "corner commercial" type of development is proposed within a low-intensity commercial zoning district. The City of St. Matthews Development Code requires a full residential setback be provided along the area of encroachment, which, if provided in full, would seriously hinder the development of the site for any purpose.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do generally apply to the land in the general vicinity or the same zone as the lot is zoned commercially but a residential setback is required.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the provision of the full required setback would make the lot virtually impossible to develop for commercial purposes, as it is zoned.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant has not started construction and is requesting the variance.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variance**

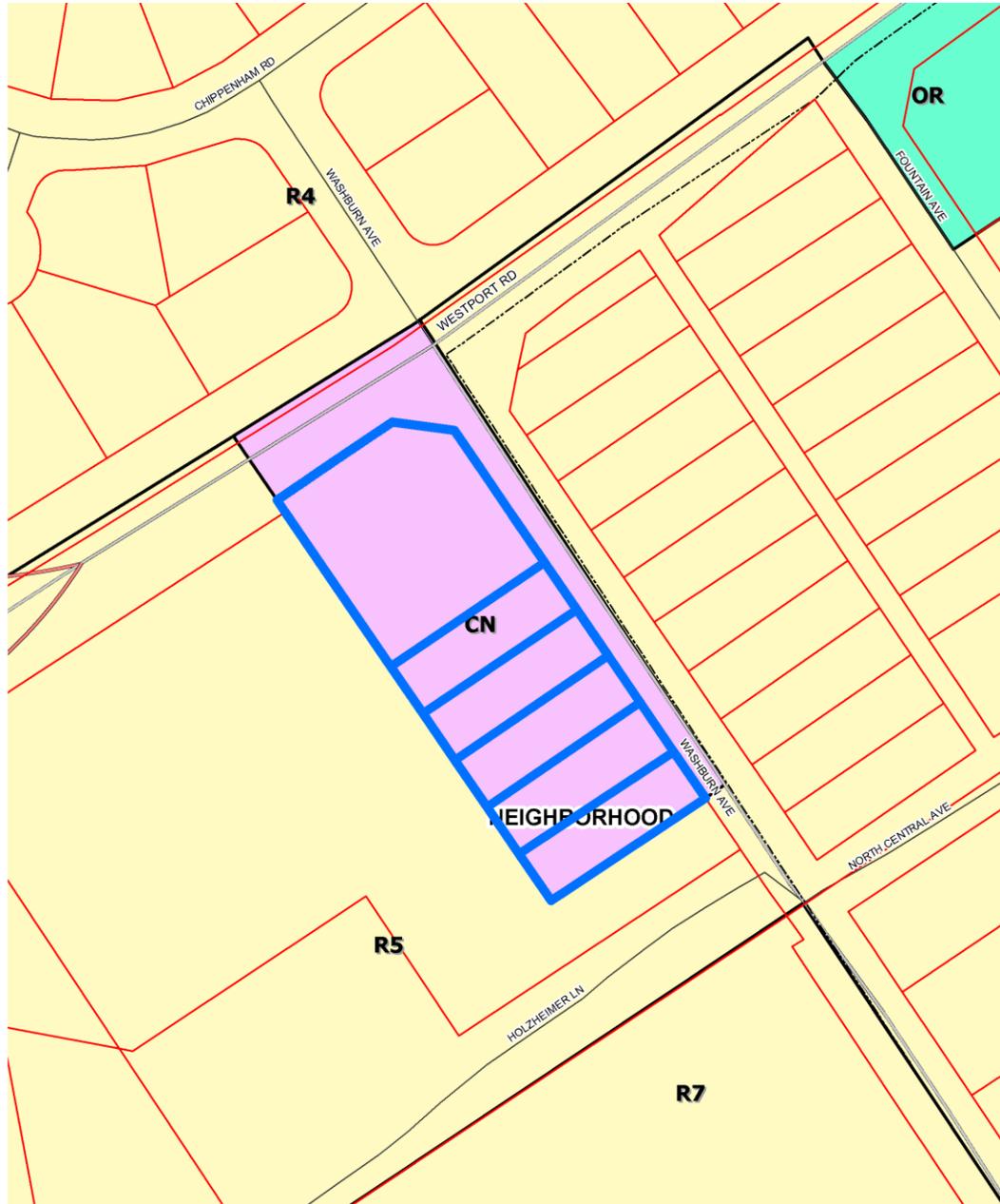
**NOTIFICATION**

Date	Purpose of Notice	Recipients
<b>07/21/2023</b>	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 7
<b>07/26/2023</b>	Hearing before BOZA	Sign posted on property

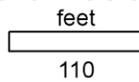
**ATTACHMENTS**

1. Zoning Map
2. Aerial Map

1. Zoning Map



Westport Road Market



Map Created: 6/21/2023



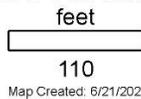
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2.

2. Aerial Map



Westport Road Market



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